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# Title 32A, Chapter 10, Part 3, Temporary Special Event Beer Permits

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As in effect until July 1, 2011

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## **32A-10-301 (Repealed 07/01/11). Commission's power to grant temporary special event beer permits -- Limitations.**

- (1) Beginning May 5, 2003, before any person may sell beer at retail for on-premise consumption at a temporary special event that does not last longer than 30 days, the person shall first obtain:
- (a) a temporary special event beer permit from the commission as provided in this part; and
  - (b) (i) a temporary special event beer permit issued by the local authority as provided in Section 32A-10-101; or
  - (ii) other written consent of the local authority to sell beer at retail for on-premise consumption at a temporary special event.
- (2) The commission may issue a temporary special event beer permit for the purpose of allowing the sale of beer for on-premise consumption at a temporary special event that does not last longer than 30 days.
- (3) (a) The temporary special event beer permit shall authorize, for a period not to exceed 30 days, the storage, sale, service, and consumption of beer at the temporary special event.
- (b) The sale of beer under a series of permits issued to the same person may not exceed a total of 90 days in any one calendar year.
- (c) A temporary special event beer permit may not be issued or obtained for the purpose of avoiding or attempting to avoid the requirement of state licensing under Part 2, On-Premise Beer Retailer License.
- (4) (a) The 600 foot and 200 foot proximity limitations to educational, religious, and recreational facilities that are applicable to state stores, package agencies, and licensees, do not apply to a temporary special event beer permit.
- (b) Notwithstanding Subsection (4)(a), nothing in this section prevents the commission from considering the proximity of any educational, religious, or recreational facility, or any other relevant factor in deciding whether to grant a temporary special event beer permit.

## **32A-10-302 (Repealed 07/01/11). Application requirements.**

- (1) (a) A person seeking a temporary special event beer permit shall file a written application with the department in a form prescribed by the department.
- (b) The application required by this section shall be accompanied by:
- (i) a permit fee of \$75, which:
    - (A) is refundable if a permit is not granted; and
    - (B) shall be returned to the applicant with the application if the permit is not granted;
  - (ii) (A) written consent of the local authority; or
  - (B) a temporary permit granted by the local authority under Section 32A-10-101;
  - (iii) a bond as specified by Section 32A-10-305;
  - (iv) the times, dates, location, estimated attendance, nature, and purpose of the temporary special event;
  - (v) a description or floor plan designating:
    - (A) the area in which the applicant proposes that beer be stored;
    - (B) the site from which the applicant proposes that beer be sold or served; and
    - (C) the area in which the applicant proposes that beer be allowed to be consumed;
  - (vi) a statement of the purpose of the temporary special event;
  - (vii) a signed consent form stating that authorized representatives of the commission, department, or any law enforcement officers will have unrestricted right to enter the premises during the temporary special event;
  - (viii) in the case of an applicant that is a partnership, corporation, or limited liability company, proper verification evidencing that the person or persons signing the application are authorized to so act on behalf of the partnership, corporation, or limited liability company; and
  - (ix) any other information the commission or department may require.
- (2) An applicant need not meet the requirements of Subsection (1)(b)(i), (ii), or (iii) if the applicant is:
- (a) a state agency; or
  - (b) a political subdivision of the state including:
    - (i) a county; or
    - (ii) a municipality.

## **32A-10-303 (Repealed 07/01/11). Qualifications.**

- (1) (a) The commission may not grant a temporary special event beer permit to any person who has been convicted of:
- (i) a felony under any federal or state law;
  - (ii) any violation of any federal or state law or local ordinance concerning the sale, manufacture, distribution,

warehousing, adulteration, or transportation of alcoholic beverages;

(iii) any crime involving moral turpitude; or

(iv) on two or more occasions within the five years before the day on which the permit is granted, driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug.

(b) In the case of a partnership, corporation, or limited liability company, the proscription under Subsection (1)(a) applies if any of the following has been convicted of an offense described in Subsection (1)(a):

(i) a partner;

(ii) a managing agent;

(iii) a manager;

(iv) an officer;

(v) a director;

(vi) a stockholder who holds at least 20% of the total issued and outstanding stock of the applicant corporation; or

(vii) a member who owns at least 20% of the applicant limited liability company.

(c) The proscription under Subsection (1)(a) applies if any person employed to act in a supervisory or managerial capacity for the temporary special event beer permittee has been convicted of any offense as provided in Subsection (1)(a).

(2) The commission may immediately suspend or revoke a temporary special event permit if after the day on which the permit is granted, a person described in Subsection (1)(a), (b), or (c):

(a) is found to have been convicted of any offense described in Subsection (1)(a) prior to the permit being granted; or

(b) on or after the day on which the permit is granted:

(i) is convicted of an offense described in Subsection (1)(a)(i), (ii), or (iii); or

(ii) (A) is convicted of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug; and

(B) was convicted of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug within five years before the day on which the person is convicted of the offense described in Subsection

(2)(b)(ii)(A).

(3) The director may take emergency action by immediately revoking the temporary special event permit according to the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, if a person described in Subsection (1)(a), (b), or (c):

(a) is arrested on a charge for an offense described in Subsection (1)(a)(i), (ii), or (iii); or

(b) (i) is arrested on a charge for the offense of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug; and

(ii) was convicted of driving under the influence of alcohol, any drug, or the combined influence of alcohol and any drug within five years before the day on which the person is arrested on a charge described in Subsection (3)(b)(i).

(4) (a) (i) The commission may not grant a temporary special event beer permit to any person who has had any type of license, agency, or permit issued under this title revoked within the last three years.

(ii) The commission may not grant a temporary special event permit to an applicant that is a partnership, corporation, or limited liability company if any partner, managing agent, manager, officer, director, stockholder who holds at least 20% of the total issued and outstanding stock of an applicant corporation, or member who owns at least 20% of an applicant limited liability company is or was:

(A) a partner or managing agent of any partnership that had any type of license, agency, or permit issued under this title revoked within the last three years;

(B) a managing agent, officer, director, or stockholder who holds or held at least 20% of the total issued and outstanding stock of any corporation that had any type of license, agency, or permit issued under this title revoked within the last three years; or

(C) a manager or member who owns or owned at least 20% of any limited liability company that had any type of license, agency, or permit issued under this title revoked within the last three years.

(b) An applicant that is a partnership, corporation, or limited liability company may not be granted a temporary special event permit if any of the following had any type of license, agency, or permit issued under this title revoked while acting in their individual capacity within the last three years:

(i) any partner or managing agent of the applicant partnership;

(ii) any managing agent, officer, director, or stockholder who holds at least 20% of the total issued and outstanding stock of the applicant corporation; or

(iii) any manager or member who owns at least 20% of the applicant limited liability company.

(c) A person acting in an individual capacity may not be granted a temporary special event permit if that person was:

(i) a partner or managing agent of a partnership that had any type of license, agency, or permit issued under this title revoked within the last three years;

(ii) a managing agent, officer, director, or stockholder who held at least 20% of the total issued and outstanding stock of a corporation that had any type of license, agency, or permit issued under this title revoked within the last three years; or

- (iii) a manager or member who owned at least 20% of the limited liability company that had any type of license, agency, or permit issued under this title revoked within the last three years.
- (5) (a) A minor may not be:
  - (i) granted a temporary special event permit; or
  - (ii) employed by a temporary special event permittee to handle alcoholic beverages.
- (b) The commission may not grant a temporary special event permit to an applicant that is a partnership, corporation, or limited liability company if any of the following is a minor:
  - (i) a partner or managing agent of the applicant partnership;
  - (ii) a managing agent, officer, director, or stockholder who holds at least 20% of the total issued and outstanding stock of the applicant corporation; or
  - (iii) a manager or member who owns at least 20% of the applicant limited liability company.
- (6) If any person to whom a permit has been issued under this part no longer possesses the qualifications required by this title for obtaining that permit, the commission may suspend or revoke that permit.

### **32A-10-304 (Repealed 07/01/11). Commission and department duties before granting permits.**

- (1) (a) Before any temporary special event beer permit may be granted by the commission, the department shall:
  - (i) conduct an investigation;
  - (ii) gather information; and
  - (iii) make recommendations to the commission as to whether or not a permit should be granted.
- (b) The department shall forward the information and recommendations described in Subsection (1)(a) to the commission to aid in the commission's determination.
- (2) Before granting any temporary special event beer permit, the commission shall:
  - (a) determine that the applicant has complied with all basic qualifications and requirements as provided by Sections 32A-10-302 and 32A-10-303;
  - (b) determine that the application is complete;
  - (c) consider the times, dates, location, estimated attendance, nature, and purpose of the temporary special event;
  - (d) to minimize the risk of minors being sold or furnished alcohol or adults being overserved alcohol at the temporary special event, assess the adequacy of control measures for:
    - (i) a large-scale public event where the estimated attendance is in excess of 1,000 people; or
    - (ii) an outdoor public event; and
  - (e) consider any other factors or circumstances the commission considers necessary.
- (3) Upon commission approval of any application and upon the granting of a temporary special event beer permit, the department shall send copies of the approved application and the permit to state and local law enforcement authorities before the scheduled event.

### **32A-10-305 (Repealed 07/01/11). Bond.**

- (1) Any applicant for a temporary special event beer permit shall post a cash or corporate surety bond in the penal sum of \$500 payable to the department, which the applicant has procured and must maintain for so long as the permit is in effect.
- (2) The bond shall be in a form approved by the attorney general, conditioned upon the permittee's faithful compliance with this title and the rules of the commission.
- (3) (a) No part of any cash or corporate bond so posted may be withdrawn during the period the permit is in effect.
- (b) A bond filed by the permittee may be forfeited if the permit is revoked.

### **32A-10-306 (Repealed 07/01/11). Operational restrictions.**

- (1) (a) A person granted a temporary special event beer permit and any person involved in the storage, sale, or service of beer at the event for which a temporary special event the permit is issued, shall abide by this title, the rules of the commission, and the special conditions and requirements provided in this section.
- (b) Failure to comply as provided in Subsection (1)(a):
  - (i) may result in:
    - (A) an immediate revocation of the permit;
    - (B) forfeiture of the surety bond; and
    - (C) immediate seizure of all beer present at the event; and
  - (ii) disqualifies the organization from applying for a temporary special event beer permit under this part or a single event permit under Chapter 7, Single Event Permits, for a period of three years from the date of revocation of the temporary special event permit.
- (c) Beer seized under this Subsection (1) shall be returned to the organization after the event if forfeiture proceedings are not instituted under Section 32A-13-103.
- (2) Special conditions and requirements for temporary special event beer permittees include the following:
  - (a) (i) A person involved in the storage, sale, or service of beer at the temporary special event is considered to be

under the supervision and direction of the permittee.

(ii) A person involved in the sale or service of beer at the temporary special event may not, while on duty:

- (A) consume an alcoholic beverage; or
- (B) be intoxicated.

(b) (i) A permittee shall purchase beer stored, sold, served, and consumed at the temporary special event from a licensed beer wholesaler or retailer.

(ii) Beer is considered under the control of the permittee during the temporary special event.

(iii) An attendee of the temporary special event may not bring an alcoholic beverage onto the premises of the temporary special event.

(c) A permittee shall post in a prominent place in the area in which beer is being sold, served, and consumed:

- (i) a copy of the permit; and
- (ii) a list of the operational restrictions and requirements of temporary special event beer permittees set forth in this section.

(d) Beer purchased for a temporary special event may not be stored, sold, served, or consumed in a location other than that described in the application and designated on the temporary special event permit unless the permittee first applies for and receives approval from the commission for a change of location.

(e) (i) Subject to Subsection (2)(e)(ii), beer may be sold for on-premise consumption:

- (A) in an open container; and
- (B) on draft.

(ii) Beer sold pursuant to Subsection (2)(e)(i) shall be in a size of container that does not exceed two liters, except that beer may not be sold to an individual attendee in a size of container that exceeds one liter.

(f) (i) Beer may not be sold, offered for sale, served, otherwise furnished, or consumed between the hours of 1 a.m. and 10 a.m.

(ii) This Subsection (2)(f) does not preclude a local authority from being more restrictive with respect to the hours of sale, service, or consumption of beer at a temporary special event.

(g) Beer may not be sold, served, or otherwise furnished to a:

- (i) minor;
- (ii) person actually, apparently, or obviously intoxicated;
- (iii) known habitual drunkard; or
- (iv) known interdicted person.

(h) (i) Beer may not be sold at less than the cost of the beer to the permittee.

(ii) Beer may not be sold at a price that encourages over consumption or intoxication.

(iii) Beer may not be sold at a special or reduced price for only certain hours of the day of the permitted event.

(iv) More than one beer beverage may not be sold or served for the price of a single beer beverage.

(v) The permittee may not engage in a public promotion involving or offering free beer to the general public.

(i) The permittee and its employees may not permit an attendee to carry from the premises an open container that:

- (i) is used for drinking purposes; and
- (ii) contains an alcoholic beverage.

(j) A minor may not sell, serve, dispense, or handle any beer at a temporary special event.

(3) The permittee shall maintain an expense and revenue ledger or record showing:

- (a) expenditures made for beer; and
- (b) the revenue from sale of beer.

(4) A temporary special event beer permit may not be transferred.

(5) A temporary special event beer permittee may not on the premises serviced by the permittee:

- (a) engage in or allow any form of gambling, as defined and proscribed in Title 76, Chapter 10, Part 11, Gambling;
- (b) have any video gaming device, as defined and proscribed by Title 76, Chapter 10, Part 11, Gambling; or
- (c) engage in or permit a contest, game, gaming scheme, or gaming device that requires the risking of something of value for a return or for an outcome when the return or outcome is based upon an element of chance, excluding the playing of an amusement device that confers only an immediate and unrecorded right of replay not exchangeable for value.

(6) A temporary special event beer permittee or an employee of the temporary special event beer permittee may not knowingly allow a person at an event to, in violation of Title 58, Chapter 37, Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

- (a) sell, distribute, possess, or use a controlled substance, as defined in Section 58-37-2; or
- (b) use, deliver, or possess with the intent to deliver drug paraphernalia, as defined in Section 58-37a-3.